

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554**

In the Matter of)
)
Amendment of Section 73, Subpart B,)
FM Broadcast Stations,)
To prohibit or restrict city of license changes)

PETITION FOR RULE MAKING

Thomas S. Desmond respectfully requests that the rules for FM Broadcast Stations, Section 73, Subpart B, be amended to restrict or eliminate city of license (COL) changes for commercial FM broadcast stations.

NEED FOR RULE CHANGE

1. In recent years, there has been an increase in rulemaking activity to change the COL of commercial FM broadcast stations. Typically, these changes involve an upgrade to a higher station class and a move to a COL that is closer to a major metropolitan area. For example, the following rulemakings are either in progress or have happened in North Texas in the past several years:

Frequency	Old COL	New COL	Near	Class Change
93.7	Healdton, OK	Krum, TX	Dallas, TX	C2 to C3
96.7	Sherman, TX	Flower Mound, TX	Dallas, TX	A to C
100.7	Bowie, TX	Highland Village, TX	Dallas, TX	C3 to C
100.7	Mt. Pleasant, TX	Overton, TX	Tyler, TX	C to C2
101.7	Denison, TX	Azle, TX	Dallas, TX	C3 to C1 to C
104.1	Sherman, TX	Sanger, TX	Dallas, TX	A to C3
104.9	Denison, TX	Pilot Point, TX	Dallas, TX	unchanged
(has current petition to upgrade to C1)				
107.9	Gainesville, TX	Lewisville, TX	Dallas, TX	C2 to C1
107.9	Corsicana, TX	Robinson, TX	Waco, TX	C1 to A

Several of these rulemakings are in work; several others have already been approved. The bottom line is a steady move of stations in surrounding areas to larger metropolitan areas, notably the Dallas-Fort Worth metropolitan area. I have also seen similar changes occur around other area cities, notably Austin, TX and Oklahoma City, OK. Similar actions are likely occurring elsewhere in the country, as well.

2. It is worth noting that if all the above rulemaking efforts are successful, the communities of Corsicana, Sherman, and Denison in the state of Texas, as well as Healdton, OK will be left with no licensed FM stations. In addition, it is rapidly approaching the point where the Dallas-Fort Worth FM dial contains stations every 400 kHz. While I have no objections to the Dallas-Fort Worth area gaining stations, I do have an objection to this occurring at the expense of surrounding areas. I also feel that this violates the mandate of 307(b) of the Communications Act specifying fair and equitable distribution of service.

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NEED FOR A TEMPORARY FREEZE ON COL CHANGES

3. I would strongly urge the FCC to place a freeze on further COL changes for commercial FM broadcast stations while considering the long term impact of this trend, and exploring possible remedies.

4. This is not an area where the free market is proving to be an effective regulator. When an individual or group can buy a station in a small community for a small sum of money, then move it to a major metropolitan area, upgrade it, and sell for a handsome profit, the matter of fair and equitable service will become an afterthought. Unfortunately, this is exactly what has been happening. I draw attention to the sale price of \$14 million for KNKI Flower Mound, TX (96.7, formerly KIKM), which had previously sold for around \$500,000 in Sherman. I also draw attention to the approximate \$3 million price tag for KXIL Sanger, TX (104.1, formerly KWSM), which had previously sold for under \$200,000 in Sherman. The free market will continue pulling these stations out of surrounding areas (but not Sherman, since it has no FM stations left) as long as these COL changes are allowed. This is why a freeze is needed now.

POSSIBLE LONG TERM REMEDIES

5. Over the long run, an absolute freeze on COL might prove to be unduly restrictive. As a result, the FCC may wish to explore more flexible means of controlling this problem for the long term. My proposals follow:

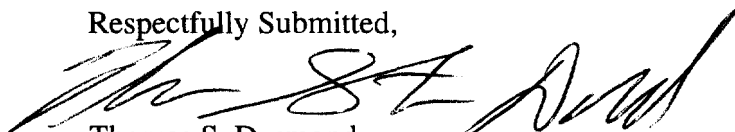
6. Prohibit COL changes that would result in the station being moved placing a protected contour over more than 25% of the population of a major metropolitan area. A major metropolitan area should be defined for the purposes of this rule as any one of the 100 largest MSAs as determined by the census bureau. For the purpose of this rule, the protected contour should be used, not the community grade contour.

7. Stations that have changed COL should be prohibited from upgrades or transmitter site moves that would result in coverage of more than 25% of a major metropolitan market population within the station's protected contour for 10 years after the COL change. This would provide a strong barrier to stations that might try to circumvent the above rule by first filing a COL change, then upgrading or moving their transmitter site later on.

CONCLUSION

8. For the above reasons, Mr. Desmond requests that Section 73, subpart B, be amended as required to restrict or prohibit COL changes for commercial FM broadcast stations.

Respectfully Submitted,



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